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Board Meeting – June 29, 2012

13th Floor – AAB Conference Room

Present Board Members:

- Andrew Bedar, Member (AB)
- Myra Berloff, Massachusetts Office on Disability Designee (MB)
- Walter White, Executive Office of Public Safety Designee (WW), Chair
- Carol Steinberg, Member (CS)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Gerald LeBlanc, Member (GL)
- Donald Lang, Chair (DL)
- Diane McLeod, Vice Chair (DM)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Mark Trivett, Member (MT)

1) **Discussion:** Fairway Oaks, Westchester Dr., Haverhill (C08-115 & V09-077)

- TH
- received another letter from Nels Palm, Manager for Fairway Oaks, LLC
 - previous decision of the Board was to break the fines into two payments
 - current letter reiterates that no funds available to pay the fines, and again request no fines

AB - turn the case over to AG for collection

MB - second – vote with AB and MB in favor, CS opposed, and WW in favor if need be

2) Discussion: Dreamland Theater, 17 South Water St., Nantucket (V12-057)

TH - email from Genevieve Neilsen of Catalano Architects
- pictures of door hardware and exterior ticket counter
- issue is the drawing of the rear egress
- drawing is not to scale

AB - looks like the run for the stairs is still not compliant

WW - 70" width provided on the plans that were not stamped

AB - no handrail at the right hand side of the stairs
- previous issue with the nosings, unsure if clear

MB - require stamped drawings, verifying guard rails along the outside section of the platform, including in front of the first wheelchair (elevation and section drawing), clarification that nosings, treads and risers comply,

*AB - second – would like to see clear width dimension beyond the wheelchairs at the front of the door and clear dimension between wheelchair locations and door
- carries pending further vote*

3) Advisory Opinion: Berkshire Bank, 99 North St., Pittsfield

TH - in response to previous review of the request by the Board
- new design submitted to try to improve the counter, proposing pull-out 30 inch wide writing counter; allows for forward approach
- proposing to add to the shelf that is there

MB - minimally complies but bad design
- no space constraints, needs to be incorporated into the dimensions
- would be more comfortable with granting a variance
- pull-out shelf is a retrofit

MB - need a variance for this design

AB - second – carries pending further vote

MB - notify the building official to allow them a temporary occupancy permit so that they can open, with the variance application due no later than July 13, 2012 or the temporary CO will expire

AB - second – carries pending further vote

4) Incoming: Canton Center Station, 710 Washington St., Canton (V12-181)

TH - EXHIBIT – variance application

- existing station, proposing mini-high platform, allowed under CMR18.5.1 and 18.5.2

CS - allowed by right under 18.5.2

AB - second – carries with AB and CS and MB opposed with WW vote in favor if need be, pending further vote

MB - send to regulation subcommittee

AB - second – carries with CS opposed, WW not in favor if need be and MB and AB in favor

5) Discussion: Bridge, Walden St., Cambridge (C09-036 & V10-090)

TH - previous motion of the Board was to grant the variance based on the fact that full compliance would take land from housing
- sued by Larry Braman, based on the fact that it didn't state that full compliance would be excessive cost without substantial benefit or technologically infeasible
- need to strengthen language about the technological infeasibility of compliance

MB - analysis is that it was an existing bridge that was renovated, technological infeasibility, but there is benefit to being able to cross the bridge; hence the reason that the Board required the handrails as proposed by the Disability Commission

AB - allow staff to reaffirm the decision for more concise language regarding impracticability

MB - second – carries pending further vote

6) Incoming: Mixed Use Building, 54-56 Berkley Street, Boston (V12-175)

TH - EXHIBIT – variance application
- offices on first floor and lodging house on the upper floors, office at first floor is for the lodging house
- only variance requested is for a historic stair handrail to be maintained
- whole building is accessible with accessible suites
- proposing compliant wall side handrails at the stair in question
- height of the proposed of the compliant wall side handrail to match the height of the existing interior handrail (27.4.2)

MB - grant 27.4.2

AB - second –

WW - what is the height of the handrails that they want to match?

MB - always require fully compliant handrails

MB - withdrawn

MB - grant the historic handrail at the interior to remain, on the condition that a fully compliant handrail be added at the wall side, therefore denying the variance for the noncompliant height at said rails

AB - second – carries, pending further vote

MB - deny lack of handrail extensions

CS - second – carries pending further vote

MB - grant winders

AB - second – carries pending further vote

7) Discussion: Steve Madden Store, 118 Newbury St., Boston (V11-248)

TH - letter from Senior Manager for Real Estate in US from T-Mobile

-adding security cameras, moving inventory locations

- seeking 25 day extensions

MB - grant 25 day extension – to December 1, 2012 for completion

CS - second – carries pending further vote

MB - accept of letter from T-Mobile as proof of an attempt to move forward

AB - second – carries pending further vote

8) Discussion: Polish National Alliance, 13 Victory St., Adams (V11-141)

TH - submittal of documentation from architect

- existing building survey

- proposed timeline for access upgrades

- cost estimates for things that they want to do

- affidavits from the president of the lodge

- already told the architect that all of the affidavits do not meet the criteria of the Board for affidavits

- sent sample affidavits on June 8th

- architect called on June 25th and said having trouble getting the affidavits from the owners

- submitted variance application as well

AB - no fixture layout in toilet rooms

AB - schedule hearing

CS - second

AB - withdrawn

MB - send the Petitioners notice that the second floor and basement will be closed to all, pending the receipt and approval by the Board of a properly executed affidavit stating that the second floor and basement are for paid employees only, signed under pains and penalties of perjury, notarized and once approved by the board must subsequently registered with the local registry of deeds.

AB - second

CS - *don't want them to register before hand*
- *carries pending further vote*

AB - *require submittal of drawing by civil engineer (stamped) regarding the site plan, at appropriate scale with street labels, which has been previously requested*

CS - *second – carries pending further vote*

AB - *Proposed First Floor Plan 1 does not show the fixture layout of the first floor toilet rooms, need plans showing fixture layout for all toilet rooms*

CS - *second – carries pending further vote*

AB - *indicate/highlight delineating between employee only space and public space, to be submitted with the requested affidavits*

CS - *second – carries pending further vote*

MB - *AAB Staff post nonuse order for second floor and basement*

AB - *second – carries pending further vote*

CS - *all plans be submitted within 60 days, by September 1, 2012 at the latest*

AB - *second – carries, pending further vote*

9) Incoming: Curb Cut at Southwest Corner of Summer and Green, Somerville (C12-006, C12-007 & V12-162)

TH - two complaints, one variance

- EXHIBIT – complaints and variance application

- C12-007, apex curb cut, asking for time to comply, they agree that violation

- seeking till 2015 construction season, but stated that they may be able to do the work in 2013 construction season

CS - *granting a time variance to the end of the 2013 construction season to complete the work required for C12-007*

MB - *second – carries pending further vote*

WW - need to keep in mind that need to keep relationship while moving forward to help advance the compliance of the rest of the outstanding complaints

- municipal entity, takes time to get the work done

MB - would like something like a transition plan, because there are noncompliant curb cuts that we are talking about that they are proposing to make compliant

- prioritize the request

TH - already asked that and they have something submitted

TH - C12-006, landing slope is 3.5%, seeking time to comply

MB - why not asking for a straight variance?

MB - grant a variance to the lack of level landing of 3.5% at C12-006 curb cut

CS - second – carries pending further vote

10) Discussion: Curb cut at Summer and Central, Somerville (C10-278)\

TH - hearing previously were the Board voted to require third party review
- City objected to the third party review, since Board dismissed complaint, complainant requested hearing, attended by the City with 3rd party consultant at the case
- made sure complainant received copy of the response from the City; she submitted response

TH - based on response from the City the Board Staff dismissed the complaint
- complainant requested hearing after dismissal
- third party consultant brought to the hearing

AB - reason that the curb cuts are skewed, due to existing layout of utilities

CS - technologically infeasible

CS - rescind previous order regarding third party review, since it is not necessary

AB - second – carries pending further vote

CS - dismiss the complaint since the apex curb cut installation is allowed via the exception of 21.2.1.1

MB - second – carries pending further vote

11) Incoming: Curb Cut at Central and Albion St., Somerville (C10-178 & V12-125)

TH - EXHIBIT – variance application and complaint
- cross slope was 3.6% at landing
- site visit conducted
- other curb cut has a cross slope of 6.8% at the south side
- apex curb cut
- sewer system closer to the corner at other location; corner of the building obstructs the view of pedestrian

MB - this apex curb cut design meets the exceptions of 521 CMR 21.2.1.1, therefore complaint is dismissed

CS - second – carries pending further vote

TH - seeking variance for the slopes that complainant reported, to maintain as is

MB - find in favor of the complainant on 3.6% landing slope violations

AB - second – carries pending further vote

MB - grant the variance to maintain 3.6% landing slope based on tech. infeasibility

AB - second – carries pending further vote

MB - find in favor of complainant for 6.8% slope

CS - second – carries pending further

MB - grant the variance to maintain 6.8% landing slope based on tech. infeasibility

CS - second – carries pending further vote

*** Let the record show that on July 2nd, the Board Staff had Board Member Mark Trivett review all of the cases that were discussed on this day and Trivett voted in favor of all motions made. Therefore, all motions made on June 29, 2012 carried, either unanimously or based on majority.

- End of Meeting -